IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE T.R.RAMACHANDRAN NAIR

MONDAY, THE 28TH MAY 2007 / 7TH JYAISHTA 1929

LA.App..No. 1838 of 2002(D)

LAR.107/1998 of PRL.SUB COURT, KOZHIKODE
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APPELLANT: RESPONDENT:

STATE OF KERALA

BY GOVERNMENT PLEADER
ADVOCATE GENERAL

RESPONDENTS: CLAIMANTS:
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1. PEIRCE LESLIE INDIA LTD.,
REG.OFFICER, MANGALORE.

2. THE MANAGER, PEIRCE LESLIE INDIA LTD.,
KARAPARAMBA, CALICUT.

3. THE MANAGER, PEIRCE LESLIE INDIA LTD.,
CHERUVANNOOR.

4. JOHN RICHARD, THACHELL,
S/O. THACHEL, BRITISHA TOWER BUNGALOW,
FORT COCHIN.

Addl. 5.THE GENERAL MANAGER, OFFICE OF THE GENERAL MANAGER,
BHARATH SANCHAR NIGAM LIMITED, KOZHIKODE.

(Impleaded as per order in CMP.NO.1780/2003 DTD.1-4-2003.)

BY ADV. SRI.K.M.JAMALUDHEEN
SRI.A.M.SHAFFIQUE
SMT.PRIYA KRISHNAMOORTHY
SRI.K.M.JAMULUDHEEN FOR ADDL.R5.

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 28/05/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP.NO.1781 OF 2003 IN LAA.NO.1838 OF 2002.

DISMISSED.

Sd/- Kurian Joseph, Judge.

28-5-2007. **Sd/-T.R.Ramachandran Nair, Judge.**

(true copy)

Kav/-

P.S. TO JUDGE.

Kurian Joseph & T.R. Ramachandran Nair, JJ.

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contended by the Govt. Pleader as well as the Standing Counsel for additional 5th respondent that reference court has not properly fixed the compensation. But it is to be seen that the fixation made by the court below is on evidence adduced by the claimant. There is no evidence at all for the appellant or the requisitioning authority. Ext.A1 is the document produced by the claimant. It is an assignment deed of the year 1995. The value shown therein is Rs.45,000/- per cent. The Advocate Commissioner reported that the property covered by Ext.A1 is situated only 100 meters away from the acquired land and that both the properties are similar and similarly situated. In fact, the Advocate Commissioner had assessed the market value at Rs.40,000/- per cent. It has come out in evidence that the acquired property is situated in an industrial area in Kozhikkode District. There are also several shopping centres adjacent and around the acquired land. It has also come out in evidence that the basis land is a garden land situated on the southern side of Cheruvannur – Kolathara road and the distance between the acquired land and the basis land is around half a kilometre. The acquired land is adjacent to the National Highway whereas the basis land is 100 metres away from National Highway. Still further, it has come out in evidence that the basis land had road access only of a five feet width private way. It was on the basis of these evidence only, the

reference court made an attempt to make a just, reasonable and proper fixation of the market value.

4. It is also to be noted that the acquired property is only around 5.20 cents. Taking note of the fact that the property covered by Ext.A1 is only 4.44 cents, accepting the arguments of the learned Govt. Pleader who appeared before the reference court, the said court fixed the land value at Rs.30,000/- as against Rs.45,000/- per cent in Ext.A1 deed and as against Rs.40,000/- as assessed by the Advocate Commissioner. On the basis of the evidence thus available on record, we are of the view that the reference court has made a just and proper fixation of the market value. We are also of the view that it is not necessary to remand the case for a fresh chance to the requisitioning authority or the appellant to adduce evidence since the fixation now made by the Reference Court is only just and proper in the facts and circumstances of the case.

There is no merit in the appeal and it is accordingly dismissed.

(Kurian Joseph, Judge.)

(T.R. Ramachandran Nair, Judge.)